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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,935	11/12/2003	Mark M. Kotik	PREDYN-44227	9890
26252	7590	02/14/2006	EXAMINER	
KELLY LOWRY & KELLEY, LLP 6320 CANOGA AVENUE SUITE 1650 WOODLAND HILLS, CA 91367				NGUYEN, KIMBERLY D
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/712,935	KOTIK ET AL.	
	Examiner	Art Unit	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 December 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9, 12-26, 29-43 and 45-47 is/are rejected.
- 7) Claim(s) 10, 11, 27, 28 and 44 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

<ol style="list-style-type: none"> 1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. 	<ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____.
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DETAILED ACTION

Response/Amendment

1. Acknowledgment is made of Response filed December 9, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8, 16-17, 19-21, 24-25, 30-31, 34-39, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by De La Huerga (US 5,883,576; hereinafter “De La Huerga ‘576”).

Re claims 1-3, 5, 16-17, 19-21, 24-25, 30-31, 34-35, and 47: De La Huerga ‘576 teaches an identification band (figs. 1-2), including:

an elongated flexible strap (bracelet 104) having a head end and a tail end (first and second ends 106 and 108 in fig. 2; col. 7, lines 43-52);

a communication circuit (figs. 3-5, 7-8) carried by the strap (col. 5, lines 26-33), the communication circuit including a pair of electronic coupling elements (504 in fig. 14; col. 13, lines 56 through col. 14, line 15) disposed generally at the strap head and tail ends (col. 7, lines 38-52); and

an adhesive for securing the strap head and tail ends (106, 108) in overlapping relation with the pair of electronic coupling elements in mutually coupled relation, to configure the strap

into a closed loop shape of selected circumferential size (“...the ends may be secured via adhesive, melting, crimping, etc” col. 7, lines 50-52; col. 7, lines 38-52);

at least one of the electronic coupling elements being physically altered in response to attempted forced separation of the adhesively secured strap head and tail ends to correspondingly alter at least one characteristic of the communication circuit (“After an identifying bracelet 104 is provided, the bracelet 104 is looped around a patient's wrist (see FIG. 6) and clasp 110 is used to secure ends 106 and 108 together such that bracelet 104 cannot be removed from the patient's wrist without destroying the bracelet 104.” col. 9, lines 41-45) (“To this end, a loop could be configured which, when cut, forms an open circuit in the memory thereby rendering the memory unusable.” col. 15, lines 19-21; col. 13, lines 56 through col. 14, line 15).

Re claims 4 and 36-37: De La Huerga '576 teaches the bracelet (104) is formed of a tear resistant plastic material, which is a dielectric material (col. 7, lines 43-45).

Re claims 6 and 38-39: De La Huerga '576 teaches the ends of the bracelet 104 may be secured via adhesive (col. 7, lines 50-52).

Re claims 8 and 24: De La Huerga '576 teaches the identification device (200), wherein the communication circuit comprises a radio frequency identification circuit to communicate with a remote reader (300 in fig. 9) (col. 9, lines 10-20; col. 10, lines 11-47).

Re claim 25: De La Huerga '576 teaches the electronic coupling elements comprising conductive films printed onto the flexible strap (see 116 in fig. 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2876

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 9, 12-15, 18, 22, 26, 29, 32-33, 40-43, 45-46 are rejected under 35

U.S.C. 103(a) as being unpatentable over De La Huerga '576 in view of Mosher, Jr. (US 5,973,600; hereinafter "Mosher, Jr. '600"). The teachings of De La Huerga '576 have been discussed above.

De La Huerga '576 fails to teach or fairly suggest the identification band further including a protective film mounted over at least a portion of the communication circuit on one side of said flexible strap.

Mosher, Jr. '600 teaches the identification band further including a protective film (30 in fig. 5) mounted over at least a portion of the communication circuit (50) on one side of said flexible strap (figs. 5-6; col. 5, lines 19-50); wherein the pair of electronic coupling elements comprises a pair of capacitor plates (92, 92' in figs. 11-13; col. 6, lines 16-67) as set forth in claim 9; wherein at least one of the strap head and tails ends has at least one precut slit formed therein (i.e., small hole at the end 18 in fig. 1).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the protective layer over the communication circuit on one side of the strap as taught by Mosher, Jr. '600 to the teachings of De La Huerga '576 in order to protect the components of circuit from being exposed.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over De La Huerga '576 in view of Harilela (US 4,862,436). The teachings of De La Huerga '576 have been discussed above.

De La Huerga '576 fails to specifically teach or fairly suggest a peel-off strip protectively covering the patch.

Harilela teaches a strap (14) having pads (10, 11) for fastening the strap to a wearer's wrist, wherein each pad (10, 11) has an adhesive backing with a peel-off protection layer 20 (figs. 4-5; col. 2, lines 38-55).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the well-known adhesive backing with a peel-off protection layer as taught by Harilela to the teachings of De La Huerga '576 due to the fact that one does not have to retreat a glue and/or adhesive means to secure the two ends of the wrist strap as taught by De La Huerga '576 but rather peel off the protection layer and secure the two ends of the wrist strap as pre-made by the manufacturer. Furthermore, De La Huerga '576 teaches the means (e.g., glue or an adhesive to secure the two ends of the wrist strap), therefore, one of ordinary skill in the art would have recognized the necessity to employ the peel-off protection layer to protect the adhesive/glue layer from being damaged by the dust, scratches, or being dried-up, etc.

Allowable Subject Matter

7. Claims 10-11, 27-28, 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

The best prior art of record fails to teach or fairly suggest wherein one of the capacitor plates has a predetermined area, and wherein the other of the capacitor plates has a length greater than the length of the one capacitor plate.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN
February 4, 2006